

Appl. No. 09/775,278
Response dated June 7, 2006
Reply to Office Action of March 8, 2006

REMARKS

This is in response to the Office Action dated March 8, 2006. Claims 60-65, 67-76, 94-106 and 124-133 are pending in the application. No claim stands allowed.

The Examiner has rejected claims 60-65, 67-76, 94-106 and 124-133 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner states that claim 60 recites the step of "attempting to validate the policy information obtained in step "a"". The Examiner states that this phrase is unclear in that it is unclear from the current claim language whether the actual validation step is performed, because according to the Examiner it is not positively recited i.e. it is merely attempted. The Examiner suggests amending the claim language to positively recite that the step is actually performed, not the purpose of the step (for example, comparing data inputted during step "d" on an individual basis with at least a portion of the policy information obtained in step "a").

Claim 60 has been amended as suggested by the Examiner.

The Examiner notes that claims 61-65, 67-76, 94-106 and 124-133 inherit the deficiencies of claim 60 through dependency and are therefore also rejected. It is believed that the amendments to claim 60 have cured the indefiniteness of claim 60 as well as the claims depending therefrom.

The Examiner objects to claim 60. In claim 60, the Examiner states that the preamble of the claim recites a method for "improving the loss ratio of a book of insurance for an underwriter". The Examiner states that the current claim language including the amendments is still drawn to a method of surveying, validating and reporting results. The Examiner thus states that it is unclear to the Examiner how the steps of the claim achieve the purpose stated in the preamble of the claim. The Examiner requests appropriate correction. New step "g" of claim 60 adds the step of the insurance underwriter taking steps to improve the loss ratio of the book of insurance after receiving the survey. Thus, it is submitted that claim 60 does claim subject matter of the preamble.

For the first art rejection, the Examiner states that claims 60-63, 67-72, 74, 75 and 105

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are rejected under 35 U.S.C. §102(e) as being anticipated. In a telephone conversation with the Examiner, it was noted that the Examiner's rejection under §102(e), though not mentioned in paragraph 6 of the typed copy of the Office Action, the Examiner is referring to the Kern reference and a copy is to be forwarded with a new Office Action.

In paragraphs 7 and 8 of the Office Action, the Examiner indicates that claims 60-63, 67-72, 74, 75, 105 are rejected under 35 U.S.C. §103(a) as unpatentable over Kern in view of McMillan (claim 60). In that rejection, the Examiner states that Kern teaches a method of surveying a group of insured or potential insureds. The Examiner's reasoning is stated in paragraph 8 of the Office Action with specific references to figures and text of the various references.

The Examiner states that claim 60 has been amended to recite a first step of a) obtaining a set of information for the insured entities upon which binding each policy was based. The Examiners reasons for continuing to reject the claims under 35 U.S.C. §103 follow at pages 5, 6, 7, 8 of the Office Action. The Examiner gives an additional rejection under 35 U.S.C. §103(a) at paragraph 11 of the Office Action. In that paragraph, the Examiner rejects claims 76, 94-98, 101-103, 106, 124-128 and 131-133 under 35 U.S.C. §103 as being unpatentable over Kern and McMillan as applied to claim 60 and in view of Peterson. The Examiners reasons for those rejections under 35 U.S.C. §103 are contained in paragraph 11 at pages 8, 9, 10, 11, 12, 13, 14.

Another rejection under 35 U.S.C. §103 is contained in paragraph 13 of the Office Action. In that rejection, the Examiner rejects claims 100 and 130 under 35 U.S.C. §103 as unpatentable over Kern, McMillan and Peterson as applied to claim 76 and 106 in view of Greco. That rejection is contained on pages 15-16 of the Office Action.

At page 16 of the Office Action, the Examiner rejects claim 104 under 35 U.S.C. §103 (a) as unpatentable over Kern and McMillan as applied to claim 60 and in view of the official notice and further in view of Walker. That rejection is contained at pages 15-16 of the Office Action.

The rejections are respectfully traversed.

The present invention provides a method that is risk-driven as opposed to money-driven.

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The method sought to be patented is a method that grades a risk based on preset underwriting guidelines. No other references of record account for underwriting guidelines or a way to improve the insured after a survey is done, with preset recommendations. Claim 60, on which all claims depend, has been amended to specifically state that the insurance underwriter takes steps to improve the loss ratio of the book of insurance after receiving a survey that is reported. None of the prior art references relied upon by the Examiner accounts for underwriting guidelines or discusses a way to improve the loss ratio of the book of insurance after the survey is done, with preset recommendations.

The Examiner relies upon prior patents to Kerns, Greco, Peterson and Walker in rejecting the claims. None of these references discloses or suggests the method sought to be patented.

Kerns is not a survey related method as claimed. Kerns is designed to compute a rate (insurance quote) for a hybrid insurance product. Basically it's a rating engine similar to those used by all insurance carriers. The difference is that Kern calculates a cost of insurance for an alternative to standard workers compensation coverage (see column 10, lines 27 - 30) using health benefit pricing and ERISA plans to provide coverage. Data is input into the application by the agent or insurance seller (see column 22). This is not a survey but a tool to develop the cost of the product (see claim 1 for example, a program "to compute one premium for the workers' compensation benefit coverage and a separate premium for the employers liability coverage").

Greco is not a survey related method as claimed. Greco is a rating system as used by other carriers. Greco is designed to fit a potential buyer (insured) into one of several slots for pricing purposes. The application information provided by the insurance seller (agent) is compared to data from the carriers existing book to determine where the buyer fits and calculates a price. Greco attempts to determine the accuracy of the data provided by the agent by comparing certain data elements to information available through public data bases or data vendors such as state motor vehicles records (e.g. see column 1, lines 64 - 67 and column 2, lines 1 - 15 of Greco).

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Peterson is not a survey related method as claimed. Peterson is designed to identify and rank employers who have high numbers of employee injuries and illnesses (e.g. see column 2, lines 17 - 20 and column 3, lines 15 - 26 and column 5, lines 16 - 24 of Peterson). Peterson is not an insurance product. Insurance carriers are provided with loss information when the application is presented and account for the number of losses through pricing by using experience modification factors. Peterson is designed for OSHA (a governmental agency) with a method to identify employers with high numbers of losses so that they can allocate resources. Peterson does not discuss nor disclose the type of survey claimed in the present application. The information used to identify and rank employers is gathered by combining data from available computer data bases.

Walker is not an insurance related method designed to improve the loss ration of a book of insurance as claimed. Walker is designed to improve the results of surveys conducted remotely or unsupervised (over the internet) For example, see column 2, lines 1 - 22 of Walker. Walker is seeking to lessen the possibility of fraud when surveying remotely. Fraud could be a false answer, one person posing as a different person, computer programs built to "stuff" a large number of surveys which appear to come from different persons, etc. Walker applies an inconsistency test to validate that the responder was who they said they were and answered truthfully. This is not a survey per se, but a method to improve the accuracy of any survey. Walker is not directed to a method of improving the loss ratio of a book of insurance as now claimed.

Applicants respectfully request that the Examiner examine all claims of the application. In view of the amendments of the claims and arguments of counsel, applicant requests reexamination of the application and a Notice of Allowance.

Should the Examiner feel that a telephone conference would advance the prosecution of this application, she is encouraged to contact the undersigned at the telephone number listed below.

Applicant respectfully petitions the Commissioner for any extension of time necessary to render this paper timely.

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Please charge any fees due or credit any overpayment to Deposit Account No. 50-0694.

Respectfully submitted,

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I hereby certify that this paper (15 pages total) is being facsimile transmitted to the Commissioner of Patents and Trademarks at (571) 273-8300 on the date shown below.

Charles C. Garvey, Jr.

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